

**REMARKS**

In accordance with the foregoing, claims 1, 12, 14 and 15 have been amended and claims 7 and 8 have been cancelled. No new matter has been entered. Therefore, claims 1-6 and 9-15 are pending and reconsideration is respectfully requested.

**REJECTIONS UNDER 35 U.S.C. §102:**

Claims 1-4 and 6-12 were rejected under 35 U.S.C. §102(e) as being anticipated by Takahashi et al. (U.S. Patent 6,653,018). These rejections are traversed.

Regarding the rejection of claim 1, applicants note that all of the previous arguments for patentability are reiterated. Further, applicants note that claim 1 as amended now recites that the thickness of the opening member in a direction perpendicular to the seal portion is less than a half of the width of the seal portion at which the opening member is disposed, and that the opening member is arranged under a half of the width of the seal portion at which the opening member is disposed. Applicants further note that Takahashi does not include a similar disclosure about the strip 23 of Takahashi. Therefore, Takahashi does not disclose the claimed invention.

Of course, applicants are aware that the Examiner has rejected the subject matter of former claims 7 and 8 which recited substantially similar features as amended claim 1. However, as will be discussed below, applicants assert that the rejections of the subject matter of former claims 7 and 8 were improper and that, therefore, claim 1, which now includes that subject matter, is allowable.

According to the Office Action, column 8, lines 14-40 of the reference to Takahashi discloses that the "thickness of the opening member in a direction perpendicular to the seal portion is less than half of the width of the seal portion at which the opening member is disposed." *See page 3 of the Office Action.* Applicants, however, note that this section of Takahashi is directed to a thickness of the thermal fusible resin layer of the envelope and to a structure of the layers of the envelope, as discussed in the first paragraph of column 8. The cited sections, then, describe a thickness of the metal layer of the envelope, and a thickness of the heat resistant resin layer of the envelope. *See Takahashi, column 8, lines 1-13.* In fact, nothing in the cited sections relates to the width of the strip 23 of Takahashi or how the width of the strip 23 related to the width of a seal formed in Takahashi.

Furthermore, it is noted that none of the drawings in the reference illustrate the relationship between the widths of the opening member and the sealed portion of the claimed invention. Indeed, with reference to FIGs. 1A, 1B and 5-7, it appears clear that the claimed

relationship would have no purpose in Takahashi. Thus, it is asserted that nothing in Takashi even implies such a relationship.

Therefore, applicants assert that the invention of claim 1 is patentably distinguished from Takahasi and that the rejection of claim 1 is overcome.

Regarding the rejection of claim 12, it is noted that claim 12 has been amended in a manner that is similar to the amendment of claim 1. Therefore, claim 12 is believed to be patentably distinguished from the reference for substantially similar reasons as set forth above. Thus, the rejection of claim 12 is also believed to be overcome.

Regarding the rejections of claims 2-4 and 6-11, it is noted that these claims depend from claim 1 and are therefore allowable for at least the reasons as set forth above.

#### **REJECTIONS UNDER 35 U.S.C. §103:**

Claims 5 and 13-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi et al. These rejections are traversed.

Regarding the rejections of claims 14 and 15, it is noted that these claims have been amended in a manner that is similar to that of claim 1. Therefore, claims 14 and 15 are believed to be patentably distinguished from the reference for substantially similar reasons as set forth above. Thus, the rejections of claims 14 and 15 are also believed to be overcome.

Regarding the rejections of claims 5 and 13, it is noted that these claims are dependent from claims 1 and 12 and are therefore allowable for at least the reasons as set forth above.

#### **THE AMENDMENTS OF CLAIMS 1, 12, 14 and 15 DO NOT INVOLVE A MERE CHANGE IN SIZE OF A COMPONENT AS SUGGESTED:**

According to the Examiner, the amendments of claims 1, 12, 14 and 15 do not render these claims patentable because the amendments involve a mere change in size of the opening member and that "a change in size is generally recognized as being within the level of ordinary skill in the art." Responsively, applicants assert that (1) the amendments of claims 1, 12, 14, and 15 do not simply involve a mere change in size of the opening member, and that (2) the Examiner's statement of the law is inaccurate.

Regarding item 1, applicants assert that the newly added amendments to claims 1, 12, 14 and 15 do not simply recite "a change in size," but rather, recite descriptions of an important feature of the invention and serves to relate a characteristic shape of the opening member to the seal portion. Further, it is noted that the size and shape of the opening member as claimed

directly impacts the operation of the opening member, as explained in the specification from paragraphs [0032]-[0036].

Thus, since the amendments recite more than a mere change in size of the opening member, as suggested, it is incumbent upon the Examiner to allow the claims as they now stand.

Applicants further note that that MPEP 2144.03 states that official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

Thus, if the Examiner intends to reiterate the statement that the amendments involve a mere change in size that is within the level of ordinary skill in the art, applicants submit that the Examiner has the burden of proof to show why the above arguments are incorrect and why the amendments would have been generally recognized as being within the level of ordinary skill in the art. Should the Examiner be unable to present such arguments, applicants again respectfully request that the claims be allowed.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

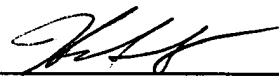
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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